

Changes to City of Tucson Code  
Related to Business Privilege (Sales Tax), Chapter 19

On May 13, 2008, ordinance 10524 was adopted. The ordinance has the following changes to the City of Tucson Tax Code. July 1, 2008 is the effective date of the changes. Deleted language is shown by strikethrough. Added language is in capital letters.

**Summary of Code Changes.**

Out-of-State Sales

Section 19-465(2) allows a deduction from tax for income received from retail sales that are out-of-state. Out-of-state sales are defined in section 19-100. The definition of out-of-state sales was changed by removing the requirement that the buyer be a non resident of Arizona. The other requirements regarding order placement, delivery of the product, and use of the product were not changed. The change to this definition does not effect out-of-state motor vehicle sales [19-465(12)].

Solar Energy Devices

An exemption from tax is added for the installation of solar energy devises and the retail sales of solar energy devices.

Definitions of "solar daylighting" and "solar energy device" were added to section 19-100. The language is identical to Arizona Revised Statues (A.R.S.) 42-5001 (14) and (15).

Subsections 19-415(b)(11), 19-416(c)(2)(c) and 19-417(c)(2)(c) are added to create new deductions for the provision and installation of a solar energy device under the construction contracting categories. Languages is identical to A.R.S. 42-5075(B)(14), including the sunset date of January 1, 2011.

Subsection 19-465(39) is added to create a new deduction for retail sale of solar energy devices. Language is identical to A.R.S. 42-5061(N).

Architectural and Engineering Fees

Subsections 19-415(a)(4), 19-416(b)(5), and 19-417(b) are added to create a deduction for "direct costs" of architectural and engineering services included in a construction contract. Language is identical to A.R.S. 42-5075(j).

**Sections changed in the code.**

Sec. 19-100. General definitions.

*Out-of-state sale* means the sale of tangible personal property and job printing if all of the following occur:

- (1) The order is placed from without the state; and
- ~~—— (2) The order is placed by other than a resident of the state to be determined in a manner similar to "resides within the city"; and~~
- (3 2) The property is delivered to the buyer at a location outside the state; and
- (4 3) The property is purchased for use outside the state.

**SOLAR DAYLIGHTING** MEANS A DEVICE THAT IS SPECIFICALLY DESIGNED TO CAPTURE AND REDIRECT THE VISIBLE PORTION OF THE SOLAR BEAM, WHILE CONTROLLING THE INFRARED PORTION, FOR USE IN ILLUMINATING INTERIOR BUILDING SPACES IN LIEU OF ARTIFICIAL LIGHTING.

**SOLAR ENERGY DEVICE** MEANS A SYSTEM OR SERIES OF MECHANISMS DESIGNED PRIMARILY TO PROVIDE HEATING, TO PROVIDE COOLING, TO PRODUCE ELECTRICAL

POWER, TO PRODUCE MECHANICAL POWER, TO PROVIDE SOLAR DAYLIGHTING, OR TO PROVIDE ANY COMBINATION OF THE FOREGOING BY MEANS OF COLLECTING AND TRANSFERRING SOLAR GENERATED ENERGY INTO SUCH USES EITHER BY ACTIVE OR PASSIVE MEANS, INCLUDING WIND GENERATOR SYSTEMS THAT PRODUCE ELECTRICITY. SOLAR ENERGY SYSTEMS MAY ALSO HAVE THE CAPABILITY OF STORING SOLAR ENERGY FOR FUTURE USE. PASSIVE SYSTEMS SHALL CLEARLY BE DESIGNED AS A SOLAR ENERGY DEVICE, SUCH AS A TROMBE WALL, AND NOT MERELY AS A PART OF A NORMAL STRUCTURE, SUCH AS A WINDOW.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, §§ 1-3, 4-25-88; Ord. No. 7446, § 2.1, 7-2-90; Ord. No. 8440, § 1, 1-23-95; Ord. No. 8784, § 1, 12-2-96; Ord. No. 8793, §1, 1-6-97; Ord. No. 8794, §1, 1-6-97; Ord. No. 9004, § 1(1), 1-05-98; Ord. No. 9069, § 1.1, 6-15-98; Ord. No. 9841, §1, 5-12-03; Ord. No. 10361, § 1, 12-19-06; ORD. NO. 10524, § 1, 05-13-08)

EDITOR'S NOTE-SECTION 1 OF ORD. NO. 10524, ADOPTED MAY 13, 2008, HAS AN EFFECTIVE DATE ON AND AFTER JULY 1, 2008.

Sec. 19-415. Construction contracting: Construction contractors.

(a) *Tax Rate.* The tax rate shall be at an amount equal to two (2) percent of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the city.

(1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. section 45-604.

(2) Reserved.

(3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under section 19-427.

(4) FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008, THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT COSTS" MEANS THE PORTION OF THE ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES.

(b) *Deductions and exemptions.*

(11) FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008, AND ENDING BEFORE JANUARY 1, 2011, THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT TO PROVIDE AND INSTALL A SOLAR ENERGY DEVICE. THE CONTRACTOR SHALL REGISTER WITH THE DEPARTMENT OF REVENUE AS A SOLAR ENERGY CONTRACTOR. BY REGISTERING, THE CONTRACTOR ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND RECORDS RELATING TO SALES OF SOLAR ENERGY DEVICES AVAILABLE TO THE DEPARTMENT OF REVENUE AND THE CITY, AS APPLICABLE FOR EXAMINATION.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 7446, § 2.4, 7-2-90; Ord. No. 8440, § 9, 1-23-95; Ord. No. 9322, § 2, 11-22-99; Ord. No. 9652, § 1, 01-14-02; Ord. No. 10040, § 2, 9-20-04; Ord. No. 10361, § 4, 12-19-06; ORD. NO. 10524, § 2, 05-13-08)

EDITOR'S NOTE-SECTION 2 OF ORD. NO. 10524, ADOPTED MAY 13, 2008, PROVIDES FOR AN EFFECTIVE DATE ON AND AFTER JULY 1, 2008.

Sec. 19-416. Construction contracting: speculative builders. (Regs. 416.1, 416.2)

(b) *Exclusions.*

- (5) FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008, THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT COSTS" MEANS THE PORTION OF THE ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES.

c) *Occurrence of Liability.* Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions relating to exemptions, to deductions and tax credits:

(2) *Deductions.*

- (C) FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008, AND ENDING BEFORE JANUARY 1, 2011, THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT TO PROVIDE AND INSTALL A SOLAR ENERGY DEVICE. THE CONTRACTOR SHALL REGISTER WITH THE DEPARTMENT OF REVENUE AS A SOLAR ENERGY CONTRACTOR. BY REGISTERING, THE CONTRACTOR ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND RECORDS RELATING TO SALES OF SOLAR ENERGY DEVICES AVAILABLE TO THE DEPARTMENT OF REVENUE AND THE CITY, AS APPLICABLE FOR EXAMINATION.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 9, 4-25-88; Ord. No. 7446, § 2.6, 7-2-90; Ord. No. 9322, § 3, 11-22-99; Ord. No. 9652, § 2, 1-14-02; Ord. No. 10040, § 3, 9-20-04; Ord. No. 10361, § 5, 12-19-06; ORD. NO. 10524, § 3, 05-13-08)

EDITOR'S NOTE- SECTION 3 OF ORD. NO. 10524, ADOPTED MAY 13, 2008, PROVIDES FOR AN EFFECTIVE DATE ON AND AFTER JULY 1, 2008.

Sec. 19-417. Construction contracting: Owner-builders who are not speculative builders.

- (C) FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008, THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT COSTS" MEANS THE PORTION OF THE ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES.

(b C) The tax liability of this section is subject to the following provisions relating to exemptions, deductions and tax credits:

(2) *Deductions.*

- (C) FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008, AND ENDING BEFORE JANUARY 1, 2011, THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT TO PROVIDE AND INSTALL A SOLAR ENERGY DEVICE. THE CONTRACTOR SHALL REGISTER WITH THE DEPARTMENT OF REVENUE AS A SOLAR ENERGY CONTRACTOR. BY REGISTERING,

THE CONTRACTOR ACKNOWLEDGES THAT IT WILL MAKE ITS  
BOOKS AND RECORDS RELATING TO SALES OF SOLAR ENERGY  
DEVICES AVAILABLE TO THE DEPARTMENT OF REVENUE AND THE  
CITY, AS APPLICABLE FOR EXAMINATION.

(e D) The limitation period for the assessment of taxes imposed by this section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth month after said unit or project was substantially complete. Interest and penalties, as provided in section 19-540, will be based on reportable date.

(d E) Reserved.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 9322, § 4, 11-22-99; Ord. No. 9652, § 3, 1-14-02; Ord. No. 10040, § 4, 9-20-04; Ord. No. 10361, § 6, 12-19-06; ORD. NO. 10524, § 4, 05-13-08)

EDITOR'S NOTE-SECTION 4 OF ORD. NO. 10524, ADOPTED MAY 13, 2008, PROVIDES FOR AN EFFECTIVE DATE ON AND AFTER JULY 1, 2008.

Sec. 19-465. Retail sales: Exemptions.

Income derived from the following sources is exempt from the tax imposed by section 19-460:

- (39) SALES OF SOLAR ENERGY DEVICES FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008. THE RETAILER SHALL REGISTER WITH THE DEPARTMENT OF REVENUE AS A SOLAR ENERGY RETAILER. BY REGISTERING, THE RETAILER ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND RECORDS RELATING TO SALES OF SOLAR ENERGY DEVICES AVAILABLE TOT HE DEPARTMENT OF REVENUE AND CITY, AS APPLICABLE, FOR EXAMINATION.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 16, 1-23-95; Ord. No. 8784, § 7, 12-2-96; Ord. No. 8958, § 6, 9-22-97; Ord. No. 9004, § 1(2), 01-05-98; Ord. No. 9069, §1.10, 6-15-98; Ord. No. 9322, § 10, 11-22-99; Ord. No. 9652, § 6, 1-14-02; Ord. No. 10361, § 10, 12-19-06; ORD. NO. 10524, § 5, 05-13-08)

EDITOR'S NOTE-SECTION 5 OF ORD. NO. 10524, ADOPTED MAY 13, 2008 PROVIDES FOR AN EFFECTIVE DATE ON AND AFTER JULY 1, 2008.